



CITY COUNCIL

SPECIAL MEETING

MINUTES

August 11, 2004

THIS IS TO CERTIFY THAT:

The San Bruno City Council met in a special session on Wednesday August 11, 2004, at the San Bruno Senior Center 1555 Crystal Springs Road. The meeting was called to order at 7:00 p.m.

1. ROLL CALL:

Presiding was Mayor Franzella, with Vice Mayor O'Connell, Councilmembers Ruane, Pallas, and Ibarra in attendance. Recording by City Clerk Simon.

PLEDGE OF ALLEGIANCE: Led by citizen Rose Urbach.

2. REVIEW OF AGENDA: No changes were made.

3. APPROVAL OF MINUTES: None

4. CONSENT CALENDAR: None

5. PUBLIC HEARINGS: None

6. UNFINISHED BUSINESS:

- a. Review City's policy on the sale and use of **"Safe and Sane" fireworks** and discuss other methods to prevent the use of illegal fireworks.

City Manager Jackson made introductory remarks and furnished a slide show displaying the extensive use of illegal fireworks with pictures provided by resident Dave Dornlas. She explained that our two public safety professionals would restate the information provided to the Council at the July 13, 2004 meeting, tonight.

Fire Chief Voreyer reviewed the 2004 activities relating to the sale of Safe and Sane fireworks in the City of San Bruno. All the organizations selling fireworks complied with all regulations and were very cooperative. One delivery truck transporting fireworks was in violation of not displaying the proper placards showing that explosives were on board and the driver was cited. Our public education efforts were not successful based on the fact that the use of illegal fireworks was at an all time high. Many citizens lit fireworks in the middle of the streets causing a delay to emergency vehicles. There were 94 fire responses or three times the normal amount. There were no reported injuries or fires due to "Safe and Sane" fireworks; however, 9 grass and brush fires and two injuries due to illegal fireworks. Fireworks caused stress to pet owners and the elderly due to the noise. As units responded to a small structure fire on Atlantic Avenue, firefighters observed people throwing M-80's and M-1000's firecrackers at the fire engine. This is beyond comprehension in our community. The public safety was stretched to the limit and he cannot promise we will be so fortunate next year.

Police Chief Violet reported that 252 calls for service were received on July 4, 2004. During the past three years calls were decreasing, this year there was a significant increase in fireworks related calls. Over 110 pounds of illegal fireworks were seized. Resources of the police department were quickly overwhelmed. Some of the explosions were so powerful they were setting off car alarms and use of aerial pyrotechnics was similar to those used in a professional display. There were a large number of citizens using city streets to light off Safe and Sane fireworks, thus blocking traffic. Backyards used for illegal fireworks made it difficult to enforce. To be able to enforce the law, police must see people in possession or actually lighting the fuse of an illegal firework. Physically arresting someone would take the officer out of service for more than an hour. For safety reasons, it requires the use of two or more officers to deal with unruly groups if alcohol is involved. The use of illegal fireworks has reached an unacceptable level. If the trend continues, the police department, with its limited resources, cannot curtail the use of illegal fireworks and ensure the safety of this community.

Mayor Franzella invited the public to address the Council.

Bryon Shear, Santa Lucia Ave., he enjoyed the July 4th event and the problems have nothing to do with "Safe and Sane" fireworks. Millbrae had just as many aerial fireworks going off as San Bruno. Safe and Sane fireworks are a good thing.

Perry Petersen, Scenic Ct. said this is a real people problem. Doesn't stop at San Bruno's border. Worst year ever for illegal and commercial skyrockets. Other Cities have ways of raising money without causing difficulties for public safety officers.

Molly Simon, Emaron Dr., said her street was very bad this year. So many other Cities have other ways to raise funds. Her vote is to ban all fireworks.

Richard Dunbar, Highland Dr., wants to go on record that the 18 groups selling fireworks need the money they raised. If individuals were arrested and prosecuted, it would cut down the illegal use.

William Paulson of Pacifica, and member of American Legion in San Bruno, said the problems had to do with illegal fireworks not Safe and Sane. If some one is prosecuted as a felon that would make a big difference and send a message.

Jim Linenburger, American Legion Post 409, in San Bruno and resident of the City of South San Francisco, wants to help those less fortunate and banning Safe and Sane fireworks would diminish our ability to be public servants.

Jo Anne Arana, San Marco Ave., said people are still lighting off fireworks today. No one wants to tell on his or her neighbors but this problem can be solved with a community effort.

Vic Montoya, Lowen Soccer, has sold fireworks since 1983 and it funds teams who travel. Money is used by needy families to keep children involved. Has not heard how eliminating Safe & Sane will eliminate illegal ones. He supports continuing use of Safe and Sane fireworks.

Jerry Kenealley, Madison Ave., said we are overlooking litigation in case we have a large fire. He filed suit against the City for the mudslide and will do so again if his property is damaged due to the City allowing the sale of fireworks.

Laura Lorenzini, Rollingwood Dr., the money raised benefits the kids and the problem is from the illegal fireworks not the Safe and Sane ones being sold by the non-profit groups.

Norma Elias, Crestmoor Dr., is in favor of continuing the sale of Safe and Sane fireworks. July 4th is to celebrate Independence Day. If they don't find Safe and Sane they will buy the illegal ones.

Dale Wilson, Pee Wee Baseball, includes 14 teams age 6 to 10 and 200 children. Proceeds pay for equipment and ball fields, which many families can't afford. If you take away the sale of fireworks will the City pay? We urge you to allow the continued use of Safe and Sane in San Bruno.

Dave Herron of Acacia Avenue is a 12-year resident. Supports the public safety officials and is in support of banning the safe and sane fireworks. Battery powered lights would be adequate substitutes. Run the pool 12 months a year.

Richard Juniata, Crestmoor Dr., burning someone's house down is not a way to celebrate the 4th of July. Volunteer groups should pay for the fire department to roll their vehicles. Ban all fireworks.

Scott Buschman, Claremont Dr., shares concern about the health and safety of our residents. If you don't ban Safe and Sane fireworks, you should designate a certain area in town to light them off so they can be monitored.

Tom Daniel, Cypress Ave., said it is clear that the use of Safe and Sane fireworks encourages the illegal fireworks. All fireworks should be banned.

Dave Dornlas, Crestmoor Dr., said it is a real problem. Our neighbors have decided to use the Safe and Sane fireworks as cover for the illegal ones. The Grand Jury in 2001 recommended both Pacifica and San Bruno stop selling fireworks. San Bruno said we have "zero tolerance" for sale and use of illegal fireworks. The time has come to ban all fireworks.

Lee Zalani, Cypress Ave., said there are many alternatives to selling fireworks. The impact on the community is not safe while selling fireworks.

Kathy Smith, Elm Ave., said it is out of control and please stop the sale and use of all fireworks. It is not pleasant to be here on the 4th of July.

Maxine Driscoll, Madison Ave., said many fireworks were being shot into the air and next to her home is an empty lot with dry brush. We must call the fire department in order for them to get cut. Would rather contribute to charitable causes than permit fireworks in the City of San Bruno.

Jim Thiele, San Bruno Pony Baseball, presented a binder/photo album to the City Council showing the improvements to the Belle Air field. There is no way to raise this kind of money at the Posy Parade. Other cities had the same problems without Safe and Sane. Get a grip on illegal ones.

Louise Johns, Trenton Dr., has enjoyed the use of Safe and Sane fireworks for many years; however, this year her house was littered with used bottle rockets. Children were throwing both legal and illegal fireworks in the street. The streets were blocked off by a mob of people. It is time to ban the use of all fireworks.

Mary Degliantoni, Trenton Dr., made numerous phone calls to the police. Who is going to pay for my home if it burns down? People had missile launchers in their backyards.

Maryanne Dornlas, Crestmoor Dr., said it is unfortunate that we might have to give up Sane and Sane fireworks. We do not have a zero tolerance policy in place. This is a dangerous situation and you should act on it now.

Deborah Kissiker, Evergreen Dr., has respect for the police and fire departments. It was a beautiful day and everyone was out drinking. It was easy to get the illegal fireworks in San Francisco. No reason to take away Safe and Sane fireworks because other people use the illegal ones. We can't "stupid proof" our community. She wants to keep Safe and Sane fireworks.

Mike Kaiser, 5th Ave., said he has sold fireworks since 1965. All he hears are the problems with the illegal fireworks but no one is being cited. Put action where your mouth is. Everything that is legal has a State Fire Marshal sticker and police should be able to enforce the law.

Mike Lovell, Fleetwood Dr., is a San Francisco firefighter. He works on July 4, and has never seen a fire caused by Safe and Sane. People should not have to put up with the "mob" rule and children should be supervised. Save Safe and Sane fireworks.

Carolyn Gray, Fairmont Dr., is an active parent and PTA participant. She is against the Safe and Sane fireworks. People from other cities are coming to our city to set off fireworks. Dogs panic and kids are awakened because of the noise.

Kevin Sullivan, Oak Ave., uses fireworks to celebrate the 4th of July. If there were one or two arrests it would send a message. He wants the sale of Safe and Sane fireworks to continue.

Robert Riechel, 7th Ave., said only 18 non-profit groups will benefit from the sale of Safe and Sane fireworks. We should listen to the two chiefs and ban all fireworks.

Anthony Washington, Terrace Ave., said he is a pet owner and supports the use and sale of Safe and Sane fireworks. The police should prosecute those using illegal ones.

Carolyn Livengood, Cheryl Dr., said if we had more neighborhood watch programs much of this illegal activity would stop. As a group we can talk to people and report the problems. If fireworks are banned we need to support the sports groups.

Gary Degliantoni, Trenton Dr., said the non-profit groups should look at other ways to raise money. If the two department heads are telling you to wake up and take action, let's look at different ways to raise money and celebrate the 4th of July.

Guy Wright, Trenton Dr., said it is time for San Bruno to ban fireworks like all cities except, Pacifica. Selling Safe and Sane is like being a "little bit pregnant".

Bill Pratt, Maple Ave., enjoys having his fireworks in his driveway. Law abiding citizens should be able to use Safe and Sane fireworks.

Grace Nolan, Rosewood Dr., said we couldn't raise money selling battery-powered lights. Her family plays soccer and has sold fireworks in order to pay for travel to other cities. There were many reasons this was not a safe July 4th.

Chris Nolan, Rosewood Dr., said people should be fined for using illegal fireworks. He uses Safe and Sane very responsibly with a bucket of water near by. He turned over illegal fireworks to the police department.

Mayor Franzella called for an eight-minute break. The meeting resumed at 9:08 p.m.

Greg Pierce, Whitman Way, thanked the City staff for their excellent reports tonight. Glad we were able to have this public hearing. Fireworks are a national tradition. Let's prosecute those using the illegal fireworks and have all cost paid by the Safe and Sane fireworks groups for any clean up. The City of Woodland designates an area in town just for setting off fireworks.

Jennifer Blanco, Parkside PTO, proceeds provide for the after school programs. Bake sales and book fairs just don't work. Lets deal with the illegal ones with stricter laws and enforcement. Keep Safe and Sane fireworks.

Steve Wong, Fernwood Dr., said the Safe and Sane fireworks sales have benefited many San Bruno families. He understands this year there was "Cannon fire" all over and we should have financial penalties for those using illegal fireworks.

Lyn Berliner, Fleetwood Dr., said funds from fireworks keep Pee Wee baseball going. The City must enforce the law against illegal fireworks and not take away the Safe and Sane ones.

John Swan, Carmel Dr., is a pet owner, and parent. Has enjoyed using Safe and Sane fireworks. He manages Saint Andrews Camp, which had 80 children out camping this summer. Financial aid for this program comes from Safe and sane fireworks. Will not survive without these funds. If no arrests or citations were made this year what is the deterrent for next year?

David Morgan, Olive Ct., said what is causing the problem is the illegal fireworks and this must be addressed. Each one of the 18 booths pays fees to cover city costs. With the state and cities cutting back we don't need to cut out Safe and Sane fireworks, which funds non-city sponsored programs.

Nicholas Byes, a young boy said he plays San Bruno baseball and his parents have taught him to be responsible. His neighbors, including senior citizens, enjoy the Safe and Sane fireworks. They care for their animals and make sure they are not scared. His choice would be to keep Safe and Sane fireworks in San Bruno.

Carlos Tapian, Jenevein Ave. had his young son say he likes fireworks and does not want them taken away. It is not right to do illegal fireworks.

Frank Hedley, Hawthorne Ave., he is not here to advocate pro or con. This matter should be placed on the ballot and be decided by the whole. The citizens should decide if the risk is great enough to ban Safe and Sane or continue a long tradition. The permit holders should pay the cost of an election not the taxpayers.

Walter Vestney, Berkshire Dr., is protesting use of fireworks. We should eliminate this problem. People should go to an organized display. San Bruno had a fireworks display on the Shelter Creek property. The bad outweighs the good so lets just get rid of them.

Maureen Duran, Rollingwood Dr., would like the Council to consider making the non-profit groups and wholesalers responsible for zero tolerance of illegal fireworks.

Elizabeth Weistrop, Madison Ave., lives near the home where the exploding pipe injured two young men and it was a terrible scene. She believes all fireworks should be banned in San Bruno.

Dennis Revel, of Revel Communications, represents TNT Fireworks. This indeed was the worst year ever for the use of illegal fireworks. It is no longer just firecrackers and cherry bombs. Large 12" to 24" shells are being sold in California via trucks and the Internet with no recrimination because the State has not funded any enforcement to stop this activity. San Bruno could use an ordinance allowing citations to be issued and he will commit the fireworks industry to help San Bruno by underwriting the cost of enforcement. The City of Oakland banned all fireworks 50 years ago; however, they had more problems this year with illegal fireworks than the City of San Bruno.

Mat Winfield, Crystal Springs Rd., wants a definition of “illegal fireworks”. With cut backs in funding to non-profits by the City, what will happen to the kids if fireworks booths are closed?

Diane Isola, Hazel Ave., does not look forward to the 4th of July holiday. It is really a money issue and the non-profits having alternatives to selling fireworks. The City should ban all fireworks.

Maria Dillard, Sylvan Ave., loves Safe and Sane fireworks and wants the City to continue selling them. The whole community benefits and they are fun and a tradition with most families. Is banning Safe and Sane the only solution?

Mayor Franzella asked the public safety officers to answer the questions about the problems the Safe and Sane fireworks are causing and what effect banning them would have on next year’s event?

Fire Chief Voreyer explained that residents placing Safe and Sane fireworks in the middle of the streets reduces the response time to emergency calls and impedes traffic flow. The City of Santa Rosa noticed a decrease in the use of illegal fireworks after banning Safe and Sane in April of this year.

Police Chief Violet explained that the haze and smoke from Safe and Sane fireworks is a hindrance to officers attempting to enforce the use of illegal ones and responding to calls for service.

Councilmember Ibarra asked the Police Chief what is needed, in order to curtail the use of illegal fireworks next year?

Police Chief Violet said use of illegal fireworks had been reducing over the last three years. Had we anticipated the volume of calls received this year, we would have had every police officer on duty and taken a zero tolerance policy approach with as many arrests as possible. A strong public education program needs to be in place many days before the event. In terms of dollars and cents we are talking a minimum of \$30,000 in overtime, which is currently not budgeted.

Councilmember Ruane said a number of speakers brought up the potential liability of the City and requested the City Attorney give her opinion.

City Attorney Thompson explained that reckless behavior of residents makes them liable for damages to their neighbor’s property. In terms of the City being liable for allowing the sale of Safe and Sane fireworks she does not feel the City would be liable because it is not being done for profit and it is allowed by State Law. That being said, fireworks are an ultra hazardous activity so there could be a group class action such as the lawsuit against the tobacco industry.

Councilmember Pallas said that back in the 20’s, “Prohibition” did not work. Fireworks must be controlled just like drinking. The police and fire department did not tell us what they need, in order to control the illegal fireworks. There is danger in any kind of endeavor, and most activities are more dangerous than Safe and Sane fireworks. He purchased Safe and Sane fireworks and enjoyed them with his grandchildren. We should make noise and be heard on July 4th. Lets find a way to control the illegal ones with an ordinance allowing us to fine and punish those in possession of them.

Vice Mayor O’Connell requested information on passing an ordinance allowing issuing fines of \$1000 if someone is found in possession of illegal fireworks.

Police Chief Violet said passing an ordinance is just one option.

Vice Mayor O'Connell said she has pets and children and enjoys using the Safe and Sane fireworks. She believes we need to control the illegal ones and has checked with other cities and they report plenty of illegal use and nothing has been done about them. We should not punish the people who follow the law.

Mayor Franzella said this is a difficult decision for him. He has enjoyed using Safe and sane fireworks and fought hard to keep them in the 1980's when other cities were banning them. He hears people's fear and both the Fire and Police Chiefs are saying they cannot properly protect us. There is no money worth raising that would make the risk worth taking. We should look very seriously into banning all fireworks and implementing an aggressive program to go after the illegal fireworks. We need a citation system in place to help the police and a discussion on how to help the non-profits raise funds without these sales.

Councilmember Ibarra said he is a lifetime volunteer and a strong supporter of raising funds with the sale of Safe and Sane fireworks. This is the most difficult decision he has encountered since serving on the Council. \$15,000 to \$20,000 being taken out of Cap High School sports will be devastating. He agrees with the Mayor that the situation has gotten out of control. We have been very lucky and have not had a disaster in San Bruno. My vote will be to ban fireworks unless the chiefs can guarantee me that they have the tools and money to provide us a safe environment.

Councilmember Ruane said he is very happy to see such a large group of citizens attending tonight's meeting. He feels the City has been very fortunate in avoiding serious injury and property damage. Most of the speakers spoke of money concerns but other non-profits make money somehow. He is very concerned that the Police and Fire Chiefs have extreme apprehension about guaranteeing public safety. While it is a difficult decision, he is in favor of abolishing firework sales in our City.

Councilmember Pallas asked how many signatures are needed to force a measure on the ballot? City Clerk Simon responded that 10% of the votes cast in the prior election is needed. The next scheduled election is March 8, 2005.

Vice Mayor O'Connell said Pacifica did have an election on this issue and the citizens voted 2 to 1 in favor of keeping Safe and Sane fireworks. No other city in San Mateo County has given the citizens an opportunity to vote on this issue. She feels the voice of the people should be heard.

M/S O'Connell/ Pallas, to put the question of whether or not to ban Safe and Sane fireworks on the ballot to have the voters decide.

The Mayor said a picture has been painted that this community cannot be adequately protected if we continue selling fireworks. We should not wait for a vote of the people. The public elected us to make decisions and after we make a decision, the public can disagree, that is their prerogative.

Councilmember Ruane echoes the Mayor's comments on this issue.

Councilmember Ibarra said he would not deny the public from making a decision but we will still have a problem whether we ban or not because of the use of illegal fireworks. He does not want to make a decision tonight until more information is obtained; such as having the wholesalers underwrite the cost of enforcement.

Mayor Franzella said we should give staff direction to come back in September with more information and an action plan.

City Manager Jackson clarified, that the information requested is, what it would take to provide enhanced enforcement to ensure the level of safety desired.

Mayor Franzella called for a vote of the motion on the floor and it passed by the following majority vote, Pallas, O'Connell, and Ibarra - Aye. The, "No" votes were not called.

Mayor Franzella said there was no need to have staff bring back information on enhanced enforcement if we are going to put this item on the ballot. At the next meeting we should bring back some funding mechanism since no funds have been budgeted.

7. PRESENTATION OF BIDS, & AWARD OF CONTRACTS: None

8. COMMUNICATIONS: None

9. STAFF REPORTS: None

10. REPORT OF CITY ATTORNEY: None

11. PUBLIC COMMENT ON ITEMS NOT ON AGENDA: No one wished to speak.

12. REPORT OF COMMISSIONS, BOARDS & COMMITTEES: None

13. NEW BUSINESS: None

14. ADJOURNMENT:

With no further business to transact, the meeting adjourned at 11:05 p.m., to the next regular City Council meeting of August 24, 2004, at 7:00 p.m. at the Senior Center 1555 Crystal Springs Road.

The foregoing minutes were approved by the San Bruno City Council at a regular meeting held on August 24, 2004.

Respectfully submitted for approval,

Ed Simon, City Clerk

Larry Franzella, Mayor